

LAND SURVEYORS SECTION MEETING

MINUTES

The Land Surveyors Section of the Virginia Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects (APELSCIDLA Board) met on November 9, 2011, at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia, with the following members present:

Paul deC. Holt, Jr.
Patrick D. Leary
Nancy E. McIntyre

Staff present for all or part of the meeting were:

Gordon N. Dixon, Director
Mark N. Courtney, Deputy Director of Licensing and Regulation
Kathleen R. Nosbisch, Executive Director
Marian H. Brooks, Board Administrator
Justin Garofalo, Board Administrator
Amy Goobic, Administrative Assistant
Earlyne Perkins, Legal Analyst

No representative was present from the Office of the Attorney General.

Ms. McIntyre, Chair, called the meeting to order at 9:34 a.m.

Call to Order

Ms. McIntyre advised the section of the emergency evacuation procedures.

Emergency Evacuation Procedures

Mr. Holt moved to approve the agenda. Mr. Leary seconded the motion which was unanimously approved by members: Holt, Leary and McIntyre.

Approval of Agenda

There were no public comments.

Public Comment

Section members were provided correspondence from Mr. Blim, as he was not able to attend the meeting.

File Number 2011- 03337, Kraig Matthew Blim

Regarding **File number 2011-03337, Kraig Matthew Blim**, the section members reviewed the record of the Informal Fact-Finding Conference, which consisted of the investigative file, transcripts and exhibits, and Summary of the Informal Fact-Finding Conference. Mr. Holt recommended

that the Board accept the Summary of the Informal Fact-Finding Conference which cites the following violations of the Board's regulations: 18VAC10-20-790.A.1 (Count 1); and 18VAC10-20-750.C (Count 2). Mr. Leary seconded the motion which was unanimously approved by members: Holt and Leary.

Ms. Perkins informed the section that Mr. Blim had no prior violations. Mr. Holt moved to recommend that the Board accept the recommended sanctions as contained in the Summary of the Informal Fact-Finding Conference: \$500 for the violation contained in Count 1; and \$150.00 for the violation contained in Count 2; for a total monetary penalty of \$650.00 and that the Board accept the recommendation to have Mr. Blim's license be placed on probation until he provides evidence acceptable to the Board that he has successfully passed the Virginia Board's Examination on Regulations. If such evidence is not submitted to the Board within six (6) months of the effective date of this order, Mr. Blim's Virginia license shall be suspended until such evidence is received by the Board. Mr. Leary seconded the motion which was unanimously approved by members: Holt and Leary. As the presiding board member, Ms. McIntyre was not present for the discussion or vote.

Ms. Nosbisch provided background on the need for a guidance document addressing comity licensure requirements. Ms. Nosbisch explained that inconsistencies have occurred in the application review process and that all applications should be treated equally. Ms. McIntyre stated that Land Surveyors have a problem obtaining experience verification from past supervisors, as many surveyors work as sole proprietors. Discussion was held on how to resolve the issue for Land Surveyors, including the possible acceptance of experience verification from a colleague. Mr. Courtney stated that the colleague would have to have been licensed for the time period that is being verified. The Section agreed that the Board would make the final determination in acceptance of a colleague verification. Ms. Nosbisch suggested adding language to the guidance document stating that "if you are unable to comply, it will be reviewed on a case by case basis." Ms. Nosbisch shared comments from the Architect Section meeting regarding the document. The Section agreed by consensus to add the language to the document. Ms. Nosbisch stated that the guidance document would help in making consistent decisions and clarify for applicants. Ms. Nosbisch will share the Section's comments at the upcoming Professional Engineers section meeting and at the full Board meeting December 15, 2011.

Ms. Nosbisch provided background information on the use of protected professional titles by other state agencies and the need for a guidance document to clarify how protected titles should be used. Ms. Nosbisch stated that the guidance document was drafted as requested at the Committee meeting September 1, 2011.

**Discussion of
Proposed Board
Guidance Document
for Comity
Licensure**

**Discussion of
Proposed Board
Guidance Document
on Use of Protected
Professional Titles**

Mr. Courtney informed the Section that Mr. Dixon is drafting a letter to address the issue. The letter will be sent to directors of other Virginia state agencies to clarify the board's regulations as they pertain to the use of professional titles. Mr. Dixon is in hopes that a letter from one agency head to others will begin an open dialogue between various agencies and provide clarification.

Discussion was held on the draft guidance document as presented. Ms. McIntyre stated that the document did not clarify, but merely restated the regulations and would not be of help to the general public. Ms. McIntyre further stated that she felt the letter from Mr. Dixon would clarify the issue. The Section agreed by consensus that the guidance document was not necessary, and the letter from Mr. Dixon would help to clarify the issue. Ms. Nosbisch shared comments from the Architect Section meeting regarding the document. Ms. Nosbisch stated that the guidance document will be presented to the full Board at its meeting December 15, 2011 along with a draft of the Director's letter.

Ms. Nosbisch provided background on the need for a guidance document addressing applicant's ability to speak and write English to the satisfaction of the Board. The current regulations require a TOEFL score for any applicant whose primary language is not English or that did not graduate from a college or university where English is the language of instruction. The guidance document clarifies that the following individuals will be considered able to speak and write English to the satisfaction of the Board: applicants that have graduated from an English-speaking high school; are currently licensed in another jurisdiction who also possess a current NCEES, NCARB or CLARB record; and applicants that were previously approved by the Board, submitted a TOEFL for the approval, and are reapplying for exam approval. Any applicant meeting one of these three criteria will not be required to submit a TOEFL score report.

Ms. Nosbisch shared comments from the Architect Section meeting regarding the document. Ms. McIntyre commented that the document contradicts the regulations, as the regulations state that a TOEFL score is required. Mr. Courtney asserted that the introductory language in the regulations states "to the satisfaction of the board," and that affords the opportunity for flexibility.

Ms. Nosbisch stated that she would discuss the language contained in the guidance document with board counsel. The Section agreed by consensus to support the guidance document provided it is approved by counsel. Mr. Courtney recommended changing the word 'determined' to 'deemed' in the last sentence of the summary - "Applicants who meet any of the above criteria shall

**Discussion of
Proposed Board
Guidance Document
for Establishing
Applicants Ability
to Speak and Write
English to the
Satisfaction of the
Board**

be ~~determined~~-deemed by the Board to be able to speak and write English to the satisfaction of the Board.” Ms. Nosbisch stated that the guidance document will be discussed at the upcoming Professional Engineers Section meeting and will be presented to the full board at its meeting December 15, 2011.

Discussion was held on the definition of “consultation” as defined in the Code of Virginia. Ms. Nosbisch explained that a Virginia licensed engineering company questioned whether a foreign company they ‘consulted’ or ‘sub-contracted’ with had to be licensed in Virginia. Ms. McIntyre stated that if the company is performing professional services, and stamping/sealing work, they should be licensed in Virginia. Mr. Courtney commented that there are two types of ‘consulting,’ one a person is learning from an expert, which is different than ‘farming out’ the work. Mr. Garofalo suggested that defining “consultation” may be best considered in the same manner as determining “incidental work” - it would depend on the extent of the ‘consultation.’

**Discussion on
Definition of
“Consultation” as it
Relates to the
Practice of
Landscape
Architecture,
Architecture and
Engineering**

Ms. Nosbisch stated that the issue will be discussed at the upcoming Professional Engineer Section meeting, and the full Board meeting December 15, 2011.

Mr. Holt informed the Section that he had been asked if the use of 3D laser scanning in surveying had to be performed by a licensed surveyor. Mr. Courtney stated that 18VAC10-20-392 addresses this:

“The use of photogrammetric methods or similar remote sensing technology to perform any part of the practice of land surveying as defined in Chapter 4 (§ 54.1-400 et seq.) of Title 54.1 of the Code of Virginia, shall be performed under the direct control and supervision of a licensed land surveyor or a licensed surveyor photogrammetrist.”

**Discussion on the
Use of 3D Laser
Scanning in
Surveying**

Ms. Nosbisch informed the Section that the last paper and pencil FE and FS exams would be October 2013, computer based testing (CBT) would be implemented thereafter.

NCEES Update

Ms. Nosbisch further informed the Section that former board member, Stanley Harris, PE, would be nominated for the NCEES National Distinguished Service Award.

Mr. Holt thanked staff for their assistance with the recent Colonial States Board for Surveyor Registration meeting held in Richmond. Mr. Holt reported that they were able to create 52 questions for the exam bank. Mr. Leary reported they have approximately 300 questions in the bank at present, and will need to increase to 1000.

Other Business

Ms. Nosbisch informed the Section that Sharon Sweet, Director of

Examinations, requested input from her for the exam vendor RFP. Ms. Nosbisch stated that the RFP will be discussed at the full Board meeting December 15, 2011, and that there will be board members invited to participate on the review panel of the proposals.

Ms. McIntyre stated that the October LS exam results should be available by the December 15 Board meeting; the Section should meet following the full board meeting for exam review. The meeting will be noticed on the Townhall website.

Ms. Nosbisch informed the Section that PCS, exam vendor, was very complimentary of JMU as a new testing site for the FE exam.

Conflict of Interest forms were completed by all members present.

**Conflict of Interest
Forms**

There being no further business, the meeting was adjourned at 11:24 a.m.

Adjourn

Nancy McIntyre, Chair

Gordon N. Dixon, Secretary